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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,703	09/25/2008	Lars Bjorkholm	10400-000213/US	4723
30593 7590 05/31/2011 HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195				
EXAMINER				
HYLTON, ROBIN ANNETTE				
ART UNIT		PAPER NUMBER		
3788				
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05/31/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,703

Applicant(s)

BJORKHOLM, LARS

Examiner

ROBIN HYLTON

Art Unit

3788

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2011 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1-20-11
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on March 21, 2011. These drawings are not approved since it is not clear the foil seal would be bent to the degree shown therein.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the foil must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the bonded foil bent downward as described in the specification. Any structural detail that is

essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Specification

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the

following is required: "the recesses are counter sunk into the bottom lid" and the snap-fit tab and the hinged joint are "within an outer peripheral edge" of the bottom lid when the cover lid is in the closed position.

Claim Rejections - 35 USC § 112

6. Claims 1,3,4, and 8-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. How does the bottom lid form a "tight unit"?

7. Claims 1,3,4, and 8-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. How would one of ordinary skill in the art make the bottom lid to "form a tight unit"? How can the bottom lid alone form a tight unit?

8. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the disclosure as originally filed for the new claim limitation of "the recesses are countersunk into the bottom lid". This is a NEW MATTER rejection.

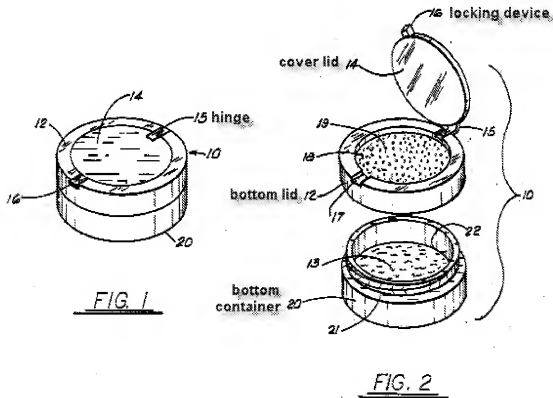
9. Claims 1,3,4, and 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear how "the bottom lid forms a tight unit" and with what other structure as now set forth in the last 3 lines of claim 1.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 1,3, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vetter (US 4,165,815) in view of Alexander et al. (US 6,712,076). Reference should be made to the following annotated figures of Vetter for the structural features disclosed therein.



Vetter does not disclose the hinged joint comprises pins snapped into corresponding recesses in the bottom lid. See column 2, lines 33-35 which discloses the cover lid **14** forms a tight unit with the bottom lid **12** to prevent the "leaking of the remover contained within sponge **18**" and column 2, lines 42-44 which discloses the bottom lid **12** forms a tight unit with the container (or case) **20** to "prevent escape of cosmetic product 13 from the case **20**".

Alexander teaches is known to provide a hinge as a pin hinge or a living hinge (col. 9, lines 34-36) as is known in the container art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the hinged joint of Vetter comprising pins and corresponding recesses as is taught by Alexander. Doing so provides a known alternative hinge joint structure for the lid since Alexander teaches the equivalence of hinges with pins and corresponding recesses and tether hinges for their use in the closure art and the selection of any of these known equivalents to form a hinge joint between a lid and base would be within the level of ordinary skill in the art.

Regarding claim 9, one of ordinary skill in the art would know to provide the recesses in a countersunk manner to maintain the hinge pins in a non-obstructing manner.

Regarding claim 3, the cover lid is disclosed as completely sealing the opening and is not seen to extend above the upper edge of the bottom lid. Wherein the cover lid is arguably not disclosed as being situated entirely under the upper edge of the bottom lid, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the lid such that the cover lid is entirely below the upper edge of the bottom lid to ensure sealing and avoid inadvertent opening of the cover lid.

12. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vetter in view of Baravaglio et al. (US 6,006,937).

Vetter as modified discloses the claimed box and lid except for a sealing foil bonded to the upper edge of the bottom container sidewall.

Baravaglio teaches it is known to provide a container with a thin sealing foil **23** bonded to the upper edge of the sidewall.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a sealing foil bonded to the upper edge of the bottom container sidewall as taught by Baravaglio and to additionally bend the foil downwards to allow for space that may be defined by a downwardly depending well on the bottom lid. Doing so protects the container contents prior to first use.

13. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vetter in view of VerWeyst et al (US 4,898,292).

Vetter discloses the claimed box except for the snap-fit tab being within an outer peripheral edge of the bottom lid when the cover lid is in the closed position.

VerWeyst teaches it is known to provide a cover lid **25** having a snap-fit tab **32** being within an outer peripheral edge of a bottom lid **15** when the cover lid is in the closed position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of the snap-fit tab being within an outer peripheral edge of the bottom lid when the cover lid is in the closed position to the box of Vetter. Doing so prevents inadvertent opening of the cover lid from the bottom lid and provides a smooth outer peripheral surface of the lid.

Response to Arguments

14. Applicant's arguments filed March 21, 2011 have been fully considered but they are not persuasive.

Applicant's challenge of the examiner's Official notice of structurally equivalent hinges has resulted in the citing and use of Alexander to teach the equivalence. See column 9, lines 34-36 of Alexander.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., liquid-tight or air-tight) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In considering the definition of "tight" and the structural limitation(s) set forth in the claim, the lid of Vetter forms a tight unit. Moreover, Vetter discloses a tight unit to prevent leakage (including drying out) of contents within the container (20) and the bottom lid (12).

Regarding applicant's remarks directed to the combination of Vetter and Baravaglio, the examiner disagrees. The sealing foil of Baravaglio is a thin foil. Thus, it can be easily shaped as desired by the manufacturer when sealing the box. One of ordinary skill in the art at the time the invention was made would find it obvious to make the sealing foil of a shape to allow for accommodating a downwardly protruding bottom wall of the bottom lid since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

17. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720/80 will be promptly forwarded to the examiner.

Art Unit: 3788

18. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday, **EXCEPT** Wednesday from 9:00 a.m. to 4:00 p.m. (Eastern Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Pickett, can be reached on (571) 272-4560.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Power of Attorney or Change of Address (via Applicant Assistance Unit) 571-272-4000
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

May 26, 2011

/Robin A. Hylton/
Robin A. Hylton
Primary Examiner
GAU 3788